

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
HAWAIIAN ELECTRIC COMPANY, INC.)
)
For Approval and/or Modification of)
Demand-Side and Load Management)
Programs and Recovery of Program Costs)
and DSM Utility Incentives)
)
_____)

Docket No. 05-0069

PROTECTIVE ORDER NO. 22929

STIPULATION FOR PROTECTIVE ORDER

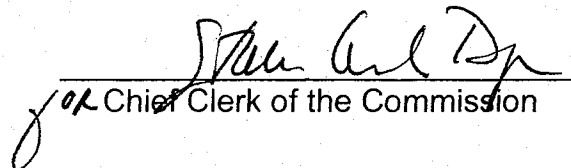
EXHIBIT A

AND

CERTIFICATE OF SERVICE

Filed October 6, 2006

At 2 o'clock P.M.


for Chief Clerk of the Commission

DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

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STIPULATION FOR PROTECTIVE ORDER

WHEREAS, Hawaiian Electric Company, Inc. ("HECO"), Hawaii Electric Light Company, Inc. ("HELCO"), Maui Electric Company, Limited ("MECO") (HECO, HELCO and MECO are collectively referred to as the "HECO Companies"), the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs ("Consumer Advocate"), the Hawaii Renewable Energy Alliance ("HREA"), the Department of the Navy on behalf of the Department of Defense ("DOD"), Rocky Mountain Institute ("RMI"), the Hawaii Solar Energy Association ("HSEA"), Life of the Land ("LOL"), Kauai Island Utility Cooperative ("KIUC"), and The Gas Company ("TGC") are parties to this proceeding and the County of Maui ("COM") and the County of Kauai ("COK") are participants to this proceeding (collectively, "parties/participants"), also referred to as the Energy Efficiency Docket, pursuant to the Rules of Practice and Procedure before the Public Utilities Commission (the "Commission");

WHEREAS, the Commission conducted panel hearings from August 28, 2006 through September 1, 2006 for this proceeding;

WHEREAS, by email dated August 30, 2006, HREA provided the parties/participants to the proceeding a Seawater Air Conditioning Value Analysis, and on August 31, 2006, HREA sponsored a related hearing exhibit, designated HREA Hearing Exhibit 2, which the Commission admitted into the record on August 31, 2006;

WHEREAS, at the conclusion of the panel hearing on August 31, 2006, the Commission approved an addendum to the procedural schedule providing for the parties/participants to file with the Commission information requests ("IRs") to HREA on its Hearing Exhibit 2 by September 8, 2006, HREA responses to the parties/participants IRs to be filed with the Commission by September 15, 2006, and the parties/participants position statement on HREA's Hearing Exhibit 2 to be filed with Commission by September 29, 2006;

WHEREAS, on September 8, 2006, HECO, the Consumer Advocate and LOL filed with the Commission IRs to HREA on its Hearing Exhibit 2;

WHEREAS, on September 15, 2006, HREA filed a request with the Commission to extend the deadline from September 15 to September 22, 2006 for it to respond to the information requests and to extend the date for the parties/participants to file their position statements on HREA's Hearing Exhibit 2 from September 29 to October 6, 2006.

WHEREAS, HREA maintains that certain information requested in the IRs filed by HECO, the Consumer Advocate and LOL is considered confidential, business sensitive, trade secrets and/or proprietary, the disclosure of which could, without

limitation, (1) disadvantage that party/participant in that disclosure of certain information may touch upon that party's/participant's respective company, customer and/or employee privacy concerns, (2) violate the terms and conditions of non-disclosure agreements with consultants or other third parties, (3) directly or indirectly give another party/participant or persons not a party to these proceedings information which the party/participant or person could use to its competitive advantage and/or to the competitive disadvantage of the submitting party/participant, or (4) otherwise be used to the detriment of the interests of the submitting party;

WHEREAS, HREA is willing to disclose certain confidential and proprietary information to the parties/participants and the Commission, as long as the information is protected from further disclosure;

WHEREAS, the parties/participants deem the information requested by HECO, the Consumer Advocate and LOL with respect to HREA Hearing Exhibit 2 to be necessary to create a complete record in this proceeding and to help facilitate the parties/participants filing with the Commission their respective position statements on October 6, 2006 with respect to the merits of HREA Hearing Exhibit 2;

WHEREAS, the parties/participants desire to establish a set of procedures and provisions pertaining to the use and disclosure of information considered to be confidential and any information which HREA or any party/participant may in the future contend to be confidential;

WHEREAS, the parties/participants understand that during the course of any subsequent hearing in this matter, if any, if it becomes necessary to address any information provided pursuant to this protective order during the course of the hearing,

that portion of the proceeding will be heard in camera;

NOW, THEREFORE IT IS HEREBY STIPULATED AND AGREED, in accordance with Section 6-61-50 of the Rules of Practice and Procedure before the Public Utilities Commission, that the Commission issue a protective order covering the confidential information identified in the course of the proceeding in connection with HREA Hearing Exhibit 2, as follows:

TERMS OF THE ORDER

1. This protective order governs the classification, acquisition, and use of confidential information produced by any party/participant in this docket.
2. All parties or participants to all or any portion of this docket, including persons who are granted intervention or participation after the effective date of this protective order, shall be subject to this protective order and shall be entitled to all confidential information of a party or participant under the provisions of this protective order to the extent allowed by the Commission.

APPLICATION OF THE UNIFORM INFORMATION PRACTICES ACT

3. To the extent that any of the documents covered by this protective order consist of "government records," as defined in Haw. Rev. Stat. §92F-3, the provisions of Haw. Rev. Stat. Ch. 92F (Uniform Information Practices Act or "UIPA") shall apply to the disclosure of information contained in such documents. In the event any provision of this protective order conflicts with any provision of the UIPA, the UIPA shall control.

CLASSIFICATION

4. Any party/participant to this proceeding may designate as confidential any information it believes, in good faith, contains trade secrets or other confidential

research, development, commercial, financial, vendor, or bid information. Such information shall be protected against disclosure to a non-qualified person pursuant to the terms of this protective order, unless such information is declassified, or permission to disclose the information to such non-qualified person is granted by the party/participant claiming confidentiality, as provided in paragraph 13 below.

5. If a party/participant designates information as confidential pursuant to paragraph 4 above or 6 below, it shall produce the confidential information in accordance with the procedures described in paragraphs 11 through 14 below, and concurrently provide certain information in writing to the Commission and the parties/participants. If a party/participant seeks to designate information as confidential, it must: (1) identify, in reasonable detail, the information's source, character, and location, (2) state clearly the basis for the claim of confidentiality, and (3) describe, with particularity, the cognizable harm to the producing party/participant from any misuse or unpermitted disclosure of the information. If the Commission or any party/participant to this docket challenges the claim of confidentiality of the information, the party/participant claiming confidentiality shall bear the burden of proof in supporting its claim of confidentiality, and the Commission will determine whether the information is confidential and subject to this protective order and whether it should be disclosed under a protective order. Any challenge to the confidentiality of any information shall be made in accordance with paragraph 25 below.

6. Confidential information provided to the Commission or the parties/participants, orally or in any other form, shall be protected as fully as confidential information provided in written form. A party/participant shall notify the Commission

and the parties/participants when information provided orally or in other than written form includes confidential information. At the time of such notification, a party/participant shall, in the manner provided in paragraph 5 above, specify the subject matter of such confidential information, the basis for the claim of confidentiality, and the cognizable harm to the producing party/participant from any misuse or unpermitted disclosure of the information.

FORMS OF CONFIDENTIAL INFORMATION

7. All information claimed to be confidential information shall be subject to the terms of this protective order, and shall be treated by all qualified persons (as defined by this protective order) as constituting confidential information. Unless a different treatment is warranted, any notes, summaries, abstracts, or analyses that are prepared by counsel, experts, or other qualified persons, and that reflect the underlying confidential information, shall also be subject to the terms of this protective order.

DESIGNATION

8. Any party/participant claiming that information is confidential shall place upon all applicable material the following legend:

CONFIDENTIAL SUBJECT TO PROTECTIVE ORDER

Whenever only a portion of a document, transcript, or other material is deemed to contain confidential information, the party/participant shall, to the extent reasonably practicable, limit the claim of confidentiality to only such portion. However, if such limitation is not reasonably practicable, the entire document, transcript, or other material may be designated as confidential information.

9. With respect to any confidential information that is not under the control of

the party/participant claiming the information is confidential, other persons shall, to the extent requested by that party/participant, cooperate to ensure that all copies of such confidential information bear the legend required in paragraph 8 above.

10. Any party/participant may request the Commission to designate as confidential information any document or other information previously produced but not designated as confidential, provided that the party/participant, in the manner provided in paragraph 5 above, specifies the subject-matter of such confidential information, the basis for the claim of confidentiality, and the cognizable harm to the producing party/participant from any misuse or unpermitted disclosure of the information. In addition, the party/participant claiming confidentiality shall substitute the previously-produced but not designated as confidential material with the identical material under designation as required in Paragraph 8 above.

DISCLOSURE

11. Except as provided in paragraph 13 below, confidential information shall not be made available or disclosed to any person who is not a "qualified person" as defined in paragraph 12 below.

12. "Qualified person," as used in this protective order, means any one of the following:

- a. The author(s), addressee(s), or originator(s) of the confidential information;
- b. The Commission, its staff, counsel (including any employees directly employed by such counsel) and any consultants retained by the Commission for this proceeding;

- c. The Consumer Advocate, its staff, its counsel (including employees directly employed by such counsel), and any consultants retained by the Consumer Advocate for this proceeding;
- d. The HECO Companies, their officers and employees, their counsel (including employees directly employed by such counsel), and any consultants retained by the HECO Companies for this proceeding;
- e. HREA, its officers and employees, its counsel (including employees directly employed by such counsel), and any consultants retained by HREA for this proceeding;
- f. Any other party or participant to this proceeding, its staff, its counsel (including employees directly employed by such counsel), and any consultants retained by it for this proceeding;
- g. Any other person approved by the party/participant asserting the claim of confidentiality; and
- h. Any other person designated as a qualified person by order of the Commission.

13. When a qualified person wishes to disclose confidential information to a non-qualified person, the qualified person must request permission from the party/participant claiming confidentiality. The request shall identify the non-qualified person to whom disclosure is desired; disclose any past, present, or anticipated affiliation between the qualified person and the non-qualified person; specify the exact information to be disclosed; and state the reasons for disclosure. If permission is granted by the party/participant claiming confidentiality, disclosure of the confidential

information shall be made to such non-qualified person in the same manner as provided for qualified persons in paragraph 14 below.

PROCEDURE FOR OBTAINING ACCESS

14. Prior to disclosing confidential information to a qualified person other than the Commission and its staff, the qualified person shall read a copy of this protective order, complete a copy of the agreement attached as Exhibit A to this protective order, and sign the completed copy of the agreement. A copy of the executed agreement shall be delivered to the party/participant claiming confidentiality and the Commission.

USE OF CONFIDENTIAL INFORMATION

15. Any confidential information obtained under this protective order shall be used solely in connection with this proceeding and any related administrative and judicial proceedings (at which time the information will continue to be treated as confidential), and shall not be used for any other purpose, including business, governmental or commercial purposes, except as provided in paragraphs 16, 17, and 18 and except as may be directed by (a) an order of court, (b) an order of the Commission, or (c) the UIPA (in the case of any "agency" as defined in Haw. Rev. Stat. §92F-3), including any ruling of the Office of Information Practices.

16. Any confidential information obtained under this protective order may be used by the Commission and its staff in any proceeding pending before the Commission involving the producing party/participant or its affiliates or where the intended use of such confidential information is for the purpose of assisting the Commission in fulfilling its statutory duties and responsibilities with respect to the producing party/participant or its affiliates. The confidential information shall continue to

be treated as confidential until the protection conferred by this protective order (or any other applicable protective order) is terminated by the producing party/participant, or until further order of the Commission.

17. Any confidential information obtained under this protective order may be used by the Consumer Advocate, its staff, its consultant and its counsel in any proceeding pending before the Commission involving the producing party/participant or its affiliates, or where the intended use of such confidential information is for the purpose of assisting the Consumer Advocate in fulfilling its statutory duties and responsibilities with respect to the producing party/participant or its affiliates. The confidential information shall continue to be treated as confidential until the protection conferred by this protective order (or any other applicable protective order) is terminated by the producing party/participant, or until further order of the Commission.

18. Any confidential information obtained under this protective order may be used by the DOD, its staff, its consultant and its counsel in any proceeding pending before the Commission involving the producing party/participant or its affiliates, in which the DOD is a party. The confidential information shall continue to be treated as confidential until the protection conferred by this protective order (or any other applicable protective order) is terminated by the producing party/participant, or until further order of the Commission.

19. Unless otherwise ordered by the Commission, if a party/participant desires to file written testimony, exhibits or pleadings which contain or reflect the confidential information, only the page(s) or portions of the page(s) containing or reflecting such information shall be treated as confidential, and that part of any hearing at which such

information is discussed shall be held in camera, or under other conditions imposed by the Commission to prevent unnecessary public disclosure of such information. A copy of any confidential page, with any such information deleted, shall be filed to be included in the public record, and each such page shall contain the following designation in the upper left hand corner:

**Confidential Information
Deleted Pursuant To
Protective Order No. ____.**

RETENTION OF CONFIDENTIAL INFORMATION

20. Confidential information shall be retained in a locked cabinet dedicated to the storage of confidential information, or otherwise secured to ensure that access to and disclosure of the confidential information is limited to a qualified person.

21. Confidential information that is given to or filed with the Commission or its staff shall be separately bound and placed in a sealed envelope or other appropriate sealed container on which shall appear the following legend:

**THIS ENVELOPE IS SEALED PURSUANT TO
PROTECTIVE ORDER NO. ____ AND CONTAINS
DOCUMENTS WITH ____ CONFIDENTIAL
INFORMATION. IT IS NOT TO BE OPENED OR
THE CONTENTS OF THIS ENVELOPE
DISPLAYED OR REVEALED EXCEPT TO
QUALIFIED PERSONS AUTHORIZED TO
INSPECT THE ENCLOSED DOCUMENTS.**

22. Confidential information shall not be reproduced or duplicated, except to make working copies and copies to be filed with the Commission under seal. If a document contains information so sensitive that it should not be copied by anyone, it shall bear the following legend: "Copying Prohibited."

23. If a court or other administrative agency requests, subpoenas, or orders

production of confidential information that a party/participant or person has obtained under this protective order, that party/participant or person, prior to disclosure, shall promptly notify the party/participant claiming confidentiality of the request, subpoena, or order.

DURATION OF CONFIDENTIALITY

24. The confidentiality of the information produced pursuant to this protective order shall be preserved until all interested parties/participants, by written stipulation, terminate the protection conferred by this protective order, or until further order of the Commission.

APPEAL TO THE COMMISSION

25. If any interested person disagrees with the designation of information as confidential, the party/participant claiming confidentiality and the person so disagreeing shall first make a good faith attempt to resolve the dispute on an informal basis. If the dispute cannot be resolved, the person contesting the confidentiality of the information shall file a motion to compel disclosure or any other appropriate motion with the Commission. The party/participant claiming confidentiality shall bear the burden of proof in supporting its claim, and the Commission will determine whether the information shall continue to be designated as confidential under this protective order. Pending a disposition of the motion, the information in question shall be treated as confidential information and shall not be disclosed except as permitted in this protective order.

NONWAIVER OF OBJECTIONS AND RIGHTS

26. The parties/participants retain the right to contest any assertion or finding

of confidentiality or of non-confidentiality.

27. The parties/participants retain the right to question, challenge, and object to the admissibility of confidential information on the grounds of relevancy or materiality.

MODIFICATION OF THE PROTECTIVE ORDER

28. This protective order shall control the subsequent course of events pertaining to the use and disclosure of information considered to be confidential, unless modified by the parties in writing and approved by the Commission. The Commission may modify this protective order on the motion of any party, or on its own motion, upon reasonable notice to the parties and an opportunity for hearing.

DISPOSAL OF CONFIDENTIAL INFORMATION

29. Except as provided in paragraphs 30 and 31 below, within 90 days after the conclusion of this proceeding, persons in possession of confidential information shall, at the option of the party/participant producing the confidential information, return or destroy all such materials and all copies, notes, tapes, papers, or other medium containing, summarizing, excerpting, or otherwise embodying any confidential information. If the party/participant producing the confidential information requests destruction, the person destroying the information shall certify its destruction to the producing party/participant, indicating the name of the person destroying the documents, the method of destruction, and the identity of the specific documents destroyed.

30. Counsel and the representatives of record for a party/participant shall be entitled to retain memoranda, pleadings, exhibits of record, written testimony, and transcripts embodying information derived from or incorporating confidential information

to the extent reasonably necessary to preserve files on this proceeding.

31. Confidential information produced in this proceeding shall remain in the possession of the Commission, the Consumer Advocate, and counsel for the Consumer Advocate for the duration required by applicable statute, and remain in the possession of the DOD and its counsel for the same period of time.

SANCTIONS

32. Any person violating this protective order shall be subject to sanctions imposed by the Commission.

COUNTERPARTS

33. To facilitate the timely processing by the parties/participants of this Stipulation for Protective Order, it may be executed by the parties/participants in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. The parties/participants may execute this Stipulation for Protective Order by facsimile for initial submission to the Commission to be followed by the filing of originals of said facsimile pages.

ORIGINAL

DATED: Honolulu, Hawaii October 2, 2006.



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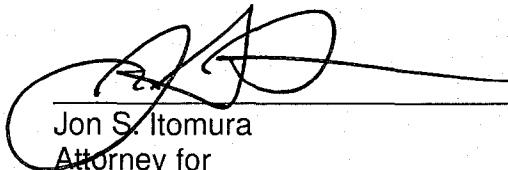
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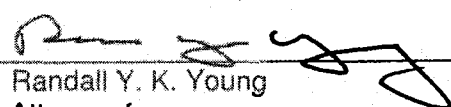
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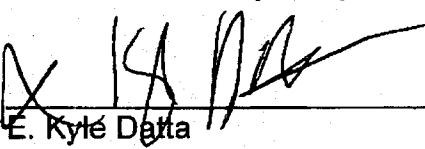
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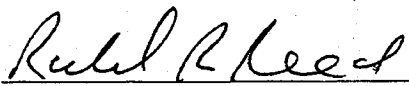
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Monday, October 02, 2006 11:11 AM
DATED: Honolulu, Hawaii

October 2, 2006

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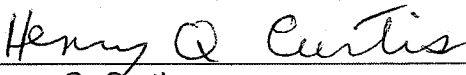
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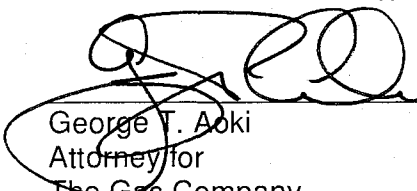
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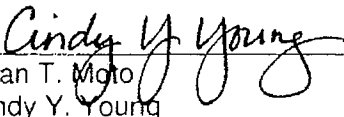
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Managing Director
Rocky Mountain Institute

Richard R. Reed
President
Hawaii Solar Energy Association

Warren S. Bollmeier II
President
Hawaii Renewable Energy Alliance

Henry Q. Curtis
Vice President
Life of the Land

George T. Aoki
Attorney for
The Gas Company


Brian T. Mito
Cindy Y. Young
Attorney for
County of Maui

Lani D. H. Nakazawa
Attorney for
County of Kauai

DATED: Honolulu, Hawaii October 2, 2006.

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Attorneys for
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Hawaii Electric Light Company, Inc.
Maui Electric Company, Limited

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E. Kyle Datta
Managing Director
Rocky Mountain Institute

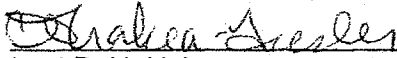
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Brian T. Moto
Cindy Y. Young
Attorney for
County of Maui


For Lani D. H. Nakazawa
Attorney for
County of Kauai

APPROVED AND SO ORDERED THIS OCT - 6 2006.

PUBLIC UTILITIES COMMISSION OF THE
STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

Nichole K. Shinamoto
Nichole K. Shinamoto
Commission Counsel

EXHIBIT A

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

PROTECTIVE AGREEMENT

1. I, _____, have been presented with a copy of Protective Order No. _____, issued by the Public Utilities Commission in Docket No. 05-0069___ on the _____ day of _____, 2006 ("Protective Order").

2. I am employed, retained or assisting _____ in Docket No. 05-0069___, am a "Qualified Person" pursuant to Paragraph 12 of the Protective Order, and have requested review of the confidential information covered by the Protective Order.

3. I understand the confidential information covered by the Protective Order is to be used solely to assist _____ as provided for in paragraph 15 of the Protective Order (and paragraph 17 in the case of rendering assistance to the Consumer Advocate and paragraph 18 in the case of rendering assistance to the DOD), and that I am to make no other use of the confidential information, nor am I to disclose the confidential information to any other person unless otherwise permitted by the Protective Order.

4. I further understand that at the conclusion of my assistance to _____, I shall account for each copy, extract, note and summary of, or other document containing any part of such confidential information to _____, and I shall abide by the provisions in paragraph 29 of the Protective Order, unless otherwise permitted by

paragraphs 30 and 31 of the Protective Order.

5. I hereby certify that I have read the above-mentioned Protective Order and agree to abide by its terms and conditions.

DATED at _____, _____, _____.

Signature

Address

() _____
Telephone Number

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing
Protective Order No. 22929 on the following parties, by causing a copy hereof to be
mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
335 Merchant Street, Room 326
Honolulu, Hawaii 96813

WILLIAM A. BONNET
VICE PRESIDENT
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HAWAII ELECTRIC LIGHT COMPANY, INC.
MAUI ELECTRIC COMPANY, LIMITED
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Honolulu, HI 96840-0001

DEAN K. MATSUURA
DIRECTOR, REGULATORY AFFAIRS
HAWAIIAN ELECTRIC COMPANY, INC.
P. O. Box 2750
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DR. KAY DAVOODI
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MANAGING DIRECTOR
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RICHARD R. REED
PRESIDENT
HAWAII SOLAR ENERGY ASSOCIATION
P. O. Box 37070
Honolulu, HI 96837

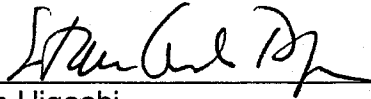
WARREN S. BOLLMEIER II
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LIFE OF THE LAND
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Attorney for TGC

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Attorneys for COM

LANI D. H. NAKAZAWA
OFFICE OF THE COUNTY ATTORNEY
COUNTY OF KAUAI
4444 Rice Street, Suite 220
Lihue, HI 96766
Attorney for COK

for 
Karen Higashi

DATED: OCT - 6 2006